IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PEITION NO.2414 OF 2006

The Registrar,
University of Mumbai & Anr. ...Petitioners.
Versus
Sandeep Kumar Khatri. ...Respondent.

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Mr. P.M. Palshikar for the Petitioner.
Ms. Manda Loke for the Respondent.

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CORAM : DR. D.Y. CHANDRACHUD, J.

October 5, 2006.

ORAL JUDGMENT:

Rule, by consent of Counsel returnable forthwith. Counsel appearing on behalf of the Respondent waives service. By consent of Counsel and at their request taken up for hearing and final disposal.

2. The University of Mumbai has moved these proceedings under Article 226 of the Constitution, aggrieved by the directions issued by the Presiding Officer of the University and College Tribunal,

holding that the Respondent is eligible for being admitted to the three years' part time Master's Degree Programme in Human Resource Development Management. The narrow issue before the Court is whether the University was justified in holding that the passing of a two year B.Sc. Degree Course by the Respondent from Garhwal University did not meet the requirement of equivalence as prescribed by the University.

3. Jamnalal Bajaj Institute of Management Studies which is affiliated to the University of Mumbai, notified an admissions programme for several courses in Management Studies including amongst them, a three year part time Master's Degree Programme in Human Resource Development Management (MHRDM). The criteria for eligibility that was prescribed by the University was to the following effect:

> "Every candidate must have (i) passed a Bachelor's Degree Examination in any faculty of this University or an examination recognized by the University as equivalent thereto, and (ii) acquired a minimum Two Years' Work Experience (Executive/Supervisory) after graduation. The experience will be counted from the day subsequent to the last day of the qualifying examination passed by the candidates." (emphasis supplied).

The Respondent has completed a two year Bachelor's Degree Course in Science (B.Sc.) in 1986 from Garhwal University. . After passing the course, the Respondent joined the Naval Academy at Goa and is presently engaged with the Indian Navy. The University granted to the Respondent, provisional admission on 18th March 2006. The communication of the University, however, clearly put the Respondent on notice that his admission would be subject to eligibility. On 6th June 2006, the Respondent was informed that he was not eligible for admission to the MHRDM Degree Course of the University of Mumbai.

4. The Respondent thereupon moved the University and College Tribunal. The Tribunal allowed the application by its judgment and order dated 19th July 2006 which is questioned in these proceedings. Before the Tribunal, reliance was placed by the University on a circular dated 1st January 2001 issued in the name of the Registrar which specifically provided that students passing three year Degree Courses in the faculties of Arts, Science and Commence

from recognized Indian Universities are considered eligible for seeking admission to a higher course of studies in the University from Academic Year 1998-99. However, individuals who had passed a Bachelor's degree from a University which offers a two year degree course, would be equated with the Second Year of the three year degree course of the University of Mumbai. Such an individual would be considered eligible for admission to the third year of the three year degree course. However, an exemption was made in the case of candidates who had obtained the Bachelor's Degree prior to 1977 with a two years' intermediate course and two years' course leading to the Bachelor's degree. The Tribunal brushed aside the aforesaid circular holding that it was not clear therefrom under what provision of the Maharashtra Universities Act, 1994 it was issued; and that the power of the Registrar did not warrant the issuance of such a circular. The Tribunal held that it is not clear as to which authority would be entitled to determine the eligibility of students for Postgraduate Courses. The decision of the Standing Committee on Equivalence dated 4th March 2002 was also placed before the Tribunal, according to which students passing a two year Bachelor's Degree Course and

possessing a Post Graduate Degree or Diploma are considered eligible for admission to Postgraduate Degree Courses of the University of Mumbai. The Tribunal rejected the reliance placed by the University on the aforesaid decision on the ground that there was no valid piece of evidence to show that the University of Mumbai does not recognise a two year degree course as equivalent to its three year degree course.

5. On behalf of the University, it has been submitted that the University Tribunal has fallen into a serious error in substituting its own opinion for the view formed by an expert academic body. Counsel submitted that there was absolutely no issue before the Tribunal in regard to the legitimacy or validity of the circular issued by the Registrar on 1st January 2001. In any event, it was submitted that the Standing Committee on Equivalence had also taken a decision on 4th March 2002 which was ratified by the Academic Council on 7th October 2002. The powers of the Academic Council under the Maharashtra Universities Act, 1994, were relied upon in support of the submission. On the other hand, Counsel appearing on behalf of the

Respondent stated that provisional admission was granted to him despite the fact that he has only completed the two years' Bachelor's Degree Course from Garhwal University and there was no reason why he should now be denied admission.

6. In considering the submissions which have been urged before the Court, it would, at the outset, be necessary to advert to the relevant provisions of the Universities' Acts as they were enacted from time to time in the State of Maharashtra, in relation to the University of Mumbai. Section 27(1) of the Bombay University Act, 1953 provided that the Academic Council shall have control and general regulation of, and be responsible for the maintenance of the standards of teaching, research and examination within the University. Sub-Section (2) thereof provided that without prejudice to the generality of the foregoing provisions and subject to such conditions as may be prescribed by or under the provisions of the Act, the Academic Council was entitled to exercise certain specific powers and to perform certain specific duties. Among them, in clause (viii) was to make Regulations prescribing equivalence of examinations.

The subsequent enactment on the subject, the Bombay University Act, 1974, constituted under Section 25 the Academic Council as the principal academic authority of the University. Section 26(1) provided that the Academic Council shall have the control and general regulation of and be responsible for the maintenance of the standards of teaching, research and examinations in the University. Under clause (vii) of sub-section (2) of section 26, the Academic Council was empowered to make Regulations for the examinations of the University and the conditions on which the students shall be admitted to such examinations and under clause (viii) to make Regulations for the equivalence of examinations. The Maharashtra Universities Act, 1994 was enacted in 1994 to provide a comprehensive legislation to govern all the Universities in the State. Section 29 of the Act, provides in sub-section (1) the functions of the Academic Council in the following terms:

> "29. Academic Council.
>
> (1) The Academic Council shall be responsible for laying down the academic policies in regard to maintenance and improvement of standards of teaching, research, (extension) collaboration programmes in academic matters and evaluation of work-load of the teachers."

7. Under Section 30(1) the Academic Council is constituted as the principal academic authority of the University which is responsible for regulating and maintaining the standards of teaching, research and examinations in the university. Without prejudice to the generality of the provisions of sub-section (1), sub-section (2) provides that the Academic Council shall, inter alia, recommend to the Management Council regarding institution of degrees, diplomas, certificates and other academic distinctions (clause a) and generally, advise the university on all academic matters (clause r). Under Section 80 of the Act, the University is entitled to constitute any other Committee other than a Committee constituted under the Act with suitable terms of reference for any specific task.

8. In the present case, the documentary material on record would show that on 1st January 2001 a circular was issued in the name of the Registrar of the University. The circular adverts to the fact that students passing a three year degree course in the faculties of Arts, Science and Commerce from recognized Indian Universities

are considered eligible for seeking admission to a Higher course of studies from the University of Mumbai from the Academic Year 1998-99. The circular then provided as follows:

> "In the case of individuals, who have a Bachelor's degree obtained from a University which offers a two year degree course, such a course may be equated with the Second Year of the three year degree course of this University. Hence, such an individual may be considered eligible for admission to the third year of the three year degree course of this University.
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> However, individuals who had obtained their Bachelor's degree prior to 1977 with two years intermediate course plus two years course leading to the Bachelor's degree could be granted equivalence with the Bachelor's degree awarded by this University."

9. The circumstances leading to the issuance of the aforesaid circular were considered in a meeting of the Standing Committee on the Equivalence of Examinations held on 4th March 2002. The agenda for the said meeting was as follows:

> "Item No.3: Question whether the students passing the B.A./ B.Sc./B.Com (Two Years Degree Course) examination conducted by the various Universities in India are to be considered for admission other Post-graduate degree courses (i.e. M.A./M.Sc./M.Com./Management and other similar courses) in this University."

The Minutes of the discussion of the Standing Committee on Equivalence show that a meeting was held on 17th July 1998 of former Deans in the faculties of Arts, Science and Commerce wherein the following resolution was passed:

> "After discussing the matter at great length, the Deans opined that the number of years the individual has studied to be eligible for a Bachelor's Degree must be taken into consideration while determining the equivalence with the Bachelor's degree of the University of Mumbai. Hence, the period of fifteen years should be considered as the minimum requirement for awarding their equivalence."

The Standing Committee on Equivalence noted that the decision which was taken was approved by the then authorities and accordingly a circular was issued on 1st January 2001 to the Directors and Heads of the University Department and to the Principals of Constituent and affiliated Colleges. The Standing Committee on Equivalence in its meeting held on 4th March 2002 accordingly passed the following resolution:

> "Resolved that it be recommended to the Academic Council that the students passing the two years B.A./B.Sc./B.Com. Degree course examination from the various recognized Universities in India and having higher qualification i.e. Post-graduate degree/diploma be considered eligible for admission to the Post graduate degree courses and other

> similar courses like LLB, B.Ed., etc. (where the qualification for admission to the said course is a Bachelor's degree), subject to the fulfillment of other required condition of the respective Rules/Regulation/Ordinances etc."

10. The Resolution of the Standing Committee was considered by the Academic Council on 7th October 2002 when the following resolution was passed:

> "It was resolved that the recommendations made by the Standing Committee on Equivalence of Examinations at its meeting held on 4th and 8th March 2002 be accepted."

11. There is merit in the submission which has been urged on behalf of the University that the legitimacy or the validity of the Registrar's circular dated 1st January 2001 did not fall for determination in the first place before the Tribunal. Counsel appearing on behalf of the University drew the attention of the Court to the fact that in the Standard Code which is extended under the Bombay University Act, 1974 amongst other enactments, the power of the Deputy Registrar (the Deputy Registrar having signed the circular) included carrying out any other work assigned by an officer of the University from time to time. It is, however, not necessary to dwell on

this aspect of the matter any further since in any event a clear and categoric decision was taken by the Standing Committee on Equivalence on 4th March 2002. The decision of the Equivalence Committee recommended to the Academic Council that students passing two years' Bachelor's degree course from the recognised Universities in India and possessing a Postgraduate degree or diploma qualification may be considered eligible for admission to the Postgraduate degree course of the University of Mumbai. This decision of the Standing Committee on Equivalence was accepted by the Academic Council on 7th October 2002. In the face of the decision of the Academic Council that holds the field since 7th October 2002, there is absolutely no ground for questioning the validity of the decision of the University which is an expert academic body. Sections 29 and 30 of the 1994 Act, constitute the Academic Council as the principal academic authority of the University. The Academic Council is responsible for laying down academic policies in regard to the maintenance of the standards of teaching, research and examinations in the University. The grounds which weighed with the Tribunal are specious. The Tribunal questioned the authority of the Registrar to

issue the circular dated 1st January 2001. The Tribunal, however, missed the central focus of the matter since the subsequent decision of the Standing Committee on Equivalence taken on 4th March 2002 adverted to the background in which the earlier decision was taken and to the fact that the recommendation made on 17th July 1998 at a meeting of the former Deans of the faculties of Arts, Science and Commerce was approved by the authority is of the University. It was in terms thereof that the circular dated 1st January 2001 was issued. Be that as it may, the Standing Committee on Equivalence took a decision on 4th March 2002 which was ratified on 7th October 2002 by the Academic Council. The substance of the decision was that a student who had passed the Bachelor's degree course consisting of a two year programme from a recognised Indian University shall be considered for a postgraduate degree course in the University of Mumbai provided the student has also obtained a higher degree or diploma qualification. In the present case, admittedly the Respondent does not have a Postgraduate degree or diploma after having completed a two years' B.Sc. Degree course. The Tribunal in these circumstances, manifestly erred in interfering with the expert

academic decision of the University. The well settled position is that a decision taken by an expert academic body should not ordinarily be interfered with. The Supreme Court held specifically so in relation to matters of equivalence between educational qualifications. (**State of Rajasthan vs. Lata Arun**, 2002 AIR SCW 2966).

12. In these circumstances, the petition filed by the University will have to be allowed and is accordingly allowed. Rule is made absolute in terms of prayer clause (a). In the circumstances, however, there shall be no order as to costs.

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